

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NYKCOOL A.B.,

Plaintiff,

-against-

12-cv-5754 (LAK)

PACIFIC INTERNATIONAL SERVICES, INC., et al.,

Defendants,

-and-

PACIFIC FRUIT INC. and KELSO ENTERPRISES, INC.,

Defendants-in-Interest.
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ORDER

LEWIS A. KAPLAN, *District Judge*.

Truisfruit, S.A. moves, pursuant to Rule 60(b), to vacate the default judgment entered against it on March 18, 2014.¹ Truisfruit filed this motion on May 13, 2014, approximately one month after it filed a notice of appeal.² The Second Circuit “has repeatedly held that the docketing of a notice of appeal ‘ousts the district court of jurisdiction except insofar as it is reserved to it explicitly by statute or rule.’”³ A district court may deny, but may not grant, a Rule 60(b) motion after an appeal has been taken absent permission from the circuit court.⁴

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DI 179.

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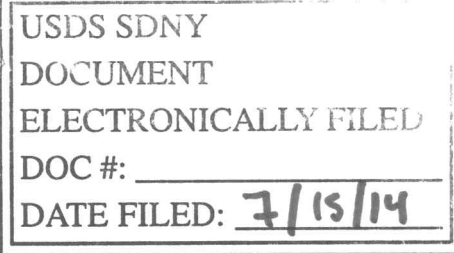
The notice of appeal was filed on April 17, 2014. DI 156.

3

Toliver v. Cnty. of Sullivan, 957 F.2d 47, 49 (2d Cir. 1992) (quoting *Ryan v. United States Line Co.*, 303 F.2d 430, 434 (2d Cir. 1962)).

4


Id.



In light of the pending appeal and in the interest of judicial economy, the Court declines to entertain the motion. Truisfruit's Rule 60(b) motion [DI 179] and its separately filed motion for a hearing [DI 183] are denied.

SO ORDERED.

Dated: July 15, 2014



Lewis A. Kaplan
United States District Judge